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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

-----X
UNITED STATES OF AMERICA

- against -

CR 00-1078 (RR)

JONATHAN WAGNER,
DANIEL HERNANDEZ and
RICHARD MORENO,

ORDER

Defendants.

-----X
A P P E A R A N C E S :

JOEL WINOGRAD, ESQ.
Winograd & Winograd P.C.
450 Seventh Avenue
New York, NY 10123
For Defendant Jonathan Wagner

MARC FERNICH, ESQ.
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For Defendant Jonathan Wagner

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320 Seventh Avenue
Brooklyn, New York 11215
For Defendant Daniel Hernandez

BARRY G. RHODES, ESQ.
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Brooklyn, New York 11201
For Defendant Richard Moreno

HONORABLE ROSLYNN R. MAUSKOPF
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

One Pierrepont Plaza
Brooklyn, New York 11201
Attorney for Respondent
By: Christina Dugger
Assistant U.S. Attorney

RAGGI, Circuit Judge:

In accordance with the Order of the United States Court of Appeals for the Second Circuit issued on July 21, 2005, directing that the above-captioned case be returned to the United States District Court for further consideration in light of United States v. Booker, 125 S. Ct. 738 (2005), and United States v. Crosby, 397 F.3d 103 (2d Cir. 2005), it is hereby ORDERED that:

A status conference is scheduled for August 29, 2005 at 2:00 p.m. in Courtroom No. 5. Attendance is required by counsel for all parties but not by the defendants themselves.

In advance of this conference, the parties are to submit in writing on or before the close of business on August 18, 2005, any further evidence, proffers, or arguments beyond those submitted at the original sentencing that they deem relevant to the inquiry outlined in United States v. Crosby.

SO ORDERED.

Dated: Brooklyn, New York
July 29, 2005

s/Reena Raggi

~~REENA~~ RAGGI *RR*
UNITED STATES CIRCUIT JUDGE*

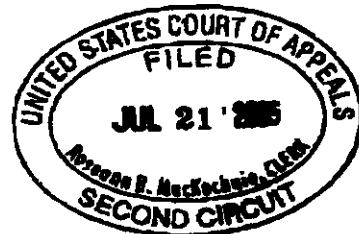
*Sitting By Designation

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, Foley Square, in the City of New York, on the 21st day of July, two thousand and five,

Present:

Hon. Amalya L. Kearse,
Hon. Sonia Sotomayor,
Circuit Judges.
Hon. Laura Taylor Swain,*
District Judge.



UNITED STATES OF AMERICA,
Appellee,

v. Docket No. [s] : 02-1287 L, 02-1288 con, 02-1507 con

JONATHAN WAGNER, DANIEL HERNANDEZ, RICHARD MORENO,
Defendants - Appellants.

The Supreme Court has granted defendant Jonathan Wagner's petition for a writ of certiorari, vacated the judgment and remanded to our Court for further consideration in light of United States v. Booker, 125 S. Ct. 738 (2005). This case is remanded to the district court for further proceedings in conformity with Booker.

The mandate has not issued in the appeal of co-defendants Daniel Hernandez and Richard Moreno. In light of the Supreme Court's decision in United States v. Booker, 125 S. Ct. 738 (2005), and this Court's decision in United States v. Crosby, 397 F.3d 103 (2d Cir. 2005), their cases are remanded to the district court for further proceedings in conformity with Crosby.

The dispositions in the summary order previously issued in connection with this appeal are hereby made part of this order and are fully effective, except to the extent that they are inconsistent with the present remand in conformity with Booker and Crosby.

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Any appeal taken from the district court's decisions on remand can be initiated only by filing new notices of appeal. See Fed. R. App. P. 3, 4(b).

A party will not waive or forfeit any appropriate argument on remand or on any appeal post-remand by not filing a petition for rehearing of this remand order.

FOR THE COURT:

Roseann B. MacKechnie, Clerk

By: Lucille Carr

*Hon. Laura Taylor Swain, United States District Judge for the Southern District of New York, sitting by designation.